PROPOSALS FOR A NEW CREDIT TRANSACTIONS ACT TO REPLACE THE PRESENT CREDIT AND LOAN AGREEMENTS ACT

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Definitions

1 In this Act,

(a) "advertisement" includes

(i) a price tag, ticket or notice attached to goods or displayed publicly,

(ii) an advertisement in a newspaper, magazine or other publication that circulates in Alberta, and

(iii) a message broadcast by television or radio that can reasonably be expected to be received by persons in Alberta;

(b) "agreement to sell" means a contract of sale in writing whereby a title to goods may be transferred to a purchaser

(i) at a time in the future, or

(ii) subject to some condition to be fulfilled;

(c) "annual percentage rate" means the annual percentage rate expressed, calculated and applied in the manner prescribed by the regulations;

(d) "cash price" means the price at which any goods or services are offered for sale less any discount given by the seller of the goods or services if the goods or services were totally paid for before the goods are delivered to or the services are performed for the purchaser;

(e) "continuous deferred payment plan" means an agreement to sell where

(i) purchases on credit can be made from time to time by a purchaser, and

(ii) the credit charges, if any, are computed from time to time in relation to the unpaid balance on all the purchases;

(f) "cost of borrowing" means, in respect of a loan, time sale or a continuous deferred payment plan,

(i) the interest or discount, and

(ii) the credit charges

thereon;

(g) "credit card" means a card or device by means of which goods, services or cash may be obtained on a deferred payment or repayment basis;

(h) "credit charges" include

(i) the interest charged,

(ii) the costs of administration, including any service, transaction or activity charge, and

(iii) loan fees, finder's fees, brokerage fees and any similar fees,

but do not include

(iv) an official fee,

(v) the amounts collected for the maintenance of a tax account,

(vi) fees for surveying,

(vii) fees and disbursements of lawyers and notaries,

(viii) charges for an appraisal or inspection,

(ix) fees for insurance in respect of a loan or mortgage, or

(x) charges imposed by the credit grantor in respect of returned cheques or bills of exchange;

(i) "credit grantor" means a person who is

(i) the seller under a time sale agreement,

(ii) the seller under a continuous deferred payment plan,

(iii) the lender under a loan agreement,

(iv) the issuer of a credit card,

(v) the lender or arranger under a mortgage, or

(vi) the lessor under a lease,

and includes an assignee of the seller's interest under a time sales agreement or the lender's interest under a loan agreement;

(j) "Director" means the Director of Consumer Credit appointed under section 33;

(k) "discounter" means a person who acquires a right to a refund of tax from a person entitled to the refund;

(l) "goods" means personal property and services, including tokens, coupons, certificates and other documents or things sold that are redeemable or exchangeable for goods or services;

(m) "income tax refund" means the amount of

(i) an overpayment of tax paid under the *Income Tax Act* (Canada) or collected pursuant to an agreement entered into under section 7 of the *Federal-Provincial Fiscal Arrangements and Established Programs Financing Act, 1977* (Canada),

(ii) a payment to an individual by virtue of an agreement referred to in clause (a) that is other than a refund of an overpayment of tax paid or collected,

(iii) an overpayment of unemployment insurance premiums paid under the *Unemployment Insurance Act, 1971* (Canada), or

(iv) an overpayment of contributions paid under the *Canada Pension Plan* (Canada),

and any interest paid on that overpayment or payment.

(n) "loan" means money owing to a credit grantor, whether the amount owing

(i) is due,

(ii) is accruing due, or

(iii) is a present or future advance,

and includes the amount of indebtedness secured by a loan agreement described in clause (o)(iii);

(o) "loan agreement" means a document or memorandum in writing

(i) evidencing a loan,

(ii) made or given as security for a loan, or

(iii) made or given as security for a past indebtedness arising under a previous loan agreement or time sale agreement, and made or given in substitution for the previous agreement;

(p) "Minister" means the member of the Executive Council charged by the Lieutenant Governor in Council with the administration of this Act;

(q) "official fee" means an amount paid to a Government authority in connection with

(i) a search made in respect of

(A) a register under the *Land Titles Act*,

(B) a registry under the *Chattel Security Registries Act*, or

(C) another register or registry, not referred to in paragraph (A) or (B), that is maintained by a Government authority,

or

(ii) the registration with the Government authority of a time sale agreement or loan agreement and includes a fee paid to a commissioner for oaths or a notary public who is not an employee of the credit grantor;

(r) "records" includes

(i) accounts, books, returns, statements, reports, financial documents or other memoranda of financial or non-financial information, whether in writing or in electronic form or represented or reproduced by any other means, and

(ii) the results of the recording of details of electronic data processing systems and programs to illustrate what the systems and programs do and how they operate.

(s) "sale" includes a bargain and sale as well as a sale and delivery;

(t) "taxpayer" means a person who has the right to receive a refund of income tax previously paid by him;

(u) "time sale" means a sale or an agreement to sell whereby the purchase price and charges in addition to the purchase price, if any, are to be paid by 1 or more future payments;

(v) "time sale agreement" means a document or memorandum in writing evidencing a time sale.

PART 1

GENERAL

Application of the Act

2(1) This Act does not apply to the following:

(a) a time sale

(i) where the principal amount of the sale is less than $100,

(ii) that is made by a manufacturer or distributor to a wholesaler, or

(iii) that is made by a manufacturer, distributor or wholesaler to a retailer;

(b) a loan, other than a loan that is secured by a mortgage of real estate, where the principal amount of the loan is greater than $50 000;

(c) a loan that is secured by a mortgage of real property where the principal amount of the loan is greater than $150 000;

(d) a lease of personal property where

(i) the term of the lease is less than 4 months,

(ii) the total amount payable under the lease is greater than $50 000, or

(iii) the property is leased by the lessee for a use other than his or his family's personal use;

(e) a lease of real property;

(f) a purchase, sale or lease of a farm implement as defined in the *Farm Implements Act;*

(g) a sale or loan to an industrial or commercial enterprise other than a person engaged in farming;

(h) a sale or loan to a municipal corporation or its agent;

(i) a sale of a service by a public utility as defined in the *Public Utilities Act;*

(j) a loan made by a life insurance company to its policy holder solely on the security of the cash surrender value of the policy;

(k) a loan made under the *Students Assistance Act* or the *Canada Student Loans Act* (Canada);

(l) a person or class of persons or a transaction or a class of transactions exempted from the operation of this Act by the regulations.

(2) Notwithstanding section 14 of the *Interpretation Act*, this Act applies, subject to subsection (1),

(a) to a loan made by the Alberta Mortgage and Housing Corporation, and

(b) to a loan made by a treasury branch.

(3) Subject to subsection (1), this Act applies

(a) to any transaction arising after the coming into force of this Act, and

(b) to any transaction arising before the coming into force of this Act where that transaction is renegotiated, revised, extended, renewed or otherwise modified after the coming into force of this Act.

(4) Notwithstanding subsection (3), section 7 applies on and after January 1, 1988 to any transaction arising before the coming into force of this Act even though that transaction is not renegotiated, revised, extended, renewed or otherwise modified after the coming into force of this Act.

Waiver

3(1) Any release or waiver by a borrower or receiver of credit

(a) of rights or benefits given by this Act, or

(b) of the requirements of this Act,

is void.

Validity of transaction

4 A transaction to which this Act applies is not rendered void or unenforceable by reason only of a failure to comply with this Act or the regulations.

Failure to comply with Act

5 If, as a result of a failure to comply with this Act or the regulations, any term of a time sale agreement, continuous deferred payment plan, loan agreement or an agreement under which a credit card is issued is not clear or there is a dispute as to the meaning of a term of the agreement, the credit grantor is only entitled to recover

(a) in the case of

(i) a time sale agreement, the cash sale price of the goods or services purchased,

(ii) a continuous deferred payment plan, the cash sale price of the goods or services being purchased under the plan,

(iii) a loan agreement, the amount that the borrower actually received from or that was actually paid on his behalf by the credit grantor in respect of the loan, or

(iv) an agreement under which a credit card is issued, the credit actually advanced on the credit card,

(b) the amount of the insurance charges, if any, that were actually paid by the credit grantor to an insurance company on behalf of the purchaser at the purchaser's request, and

(c) an amount, if any, in respect of the credit charges that a court, having regard to the purpose and intent of this Act, considers appropriate in the circumstances.

Calculation of annual percentage rate and cost of borrowing

6(1) The annual percentage rate calculated and disclosed by a credit grantor to a purchaser or borrower shall be accurate to within 1/8 of 1%.

(2) For any loan, the cost of borrowing in respect of a period shall be calculated by multiplying the portion of the annual percentage rate that the period is of 1 year by the principal amount that is outstanding at the end of the period.

Application of payments

7 Any payment in respect of a loan shall be applied first to pay the accumulated cost of borrowing of the principal amount of the loan and thereafter to reduce the principal amount of the loan.

Restrictions on credit charges

8(1) A credit grantor who has extended credit under a time sale agreement, a continuous deferred payment plan, a loan agreement or a credit card, shall not exact or attempt to exact from

(a) a purchaser, in the case of a time sales agreement or a continuous deferred payment plan,

(b) a borrower, in the case of a loan agreement, or

(c) the person who obtains credit under a credit card,

credit charges in excess of the amount permitted by this Act or the *Interest Act* (Canada).

(2) If a time sales agreement, continuous deferred payment plan, loan agreement or agreement under which a credit card is issued specifies, as an annual percentage rate, the credit charges or the additional charges, or both, to be made in the event of default,

(a) no credit grantor shall exact, and

(b) no

(i) purchaser, in the case of a time sales agreement or a continuous deferred payment plan,

(ii) borrower, in the case of a loan agreement, or

(iii) person who obtains credit under a credit card,

shall be required to pay,

an amount greater than the charges calculated on the basis of the rates so specified.

(3) If, in respect of the credit charges or additional charges to be made under a time sales agreement, continuous deferred payment plan, loan agreement or agreement under which a credit card is issued in event of default, there is a variation greater than the tolerance permitted under this Act between those charges expressed as an annual percentage rate and as an amount of money,

(a) no credit grantor shall exact, and

(b) no

(i) purchaser, in the case of a time sales agreement or a continuous deferred payment plan,

(ii) borrower, in the case of a loan agreement, or

(iii) person who obtain credit under a credit card,

shall pay,

an amount greater than the lesser of those charges expressed as an annual percentage rate and as an amount of money.

Overpayment of credit charges

9(1) If a credit grantor has extended credit under a time sales agreement, continuous deferred payment plan, loan agreement or a credit card and receives from

(a) a purchaser, in the case of a time sales agreement or a continuous deferred payment plan,

(b) a borrower, in the case of a loan agreement, or

(c) a person to whom credit is extended under a credit card,

payment of any credit charges, additional charges or other fees in excess of the amounts permitted by this Act, the credit grantor shall return forthwith that excess amount to the person who had made the payment of that excess amount.

(2) A person has an action in debt against a credit grantor for any amount not returned to that person under subsection (1).

Acceleration clause

10 If a time sales agreement, continuous deferred payment plan, loan agreement or agreement under which a credit card was issued contains a provision to the effect that on the default of

(a) the purchaser, in the case of a time sales agreement or a continuous deferred payment plan,

(b) the borrower, in the case of a loan agreement, or

(c) the person obtaining credit under a credit card,

or on the occurrence of any other event, and whether at the option of the credit grantor or not, the whole or part of the balance remaining unpaid becomes immediately payable or is otherwise accelerated, then, notwithstanding anything in the agreement or plan,

(c) the whole or part of the balance remaining unpaid does not become payable or otherwise accelerated, and

(d) any rate of interest made especially applicable to the amount remaining unpaid does not become effective,

before the purchaser, borrower or person obtaining the credit, as the case may be, has received written notice of the default or other event.

Advertising, general

11(1) This section applies to advertisements made or published by a credit grantor in respect of a transaction to which this Act applies other than

(a) a lease to which this Act applies, or

(b) a loan secured by a mortgage on real property.

(2) If the advertisement includes any credit information it shall also include the following:

(a) the principal amount of the loan;

(b) the credit charges expressed as dollars and cents and as an annual percentage;

(c) the down payment, if any, required;

(d) the number of instalments and the amount of each instalment;

(e) the total amount of the loan that is to be repaid over the term of the loan.

(3) Subsection (2) does not apply if the only credit information in the advertisement is

(a) the annual percentage rate,

(b) the term of the loan over which repayments are to be made, or

(c) the maximum or minimum credit available or balance on which credit will be granted.

(4) If the transaction to which the advertisement relates does not include any credit charges other than a penalty for default of payment, subsection (2) does not apply if the only credit information in the advertisement consists of 1 or both of the following:

(a) the down payment, if any, expressed as dollars and cents or as a fraction or percentage of the total amount payable under the agreement;

(b) the term of the loan over which repayment is to be made.

(5) Notwithstanding subsection (2), if the advertising is in the form of a multi-page catalogue or advertisement, 1 example may be used with references in the presentation to that example.

(6) Subsections (2) to (5) do not apply if the only credit information in the advertisement is the statement "credit plan available" or "financing available".

Advertising, leases

12 An advertisement made or published by a credit grantor in respect of a lease to which this Act applies shall include the following:

(a) a statement that the transaction is a lease;

(b) the number, amount and total of the payments;

(c) the term of the lease over which the payments are to be made.

Insurance

13(1) If a credit grantor enters into

(a) a time sale agreement with a purchaser,

(b) a continuous deferred payment plan with a purchaser, or

(c) a loan agreement with a borrower,

he may, on behalf of an insurer, take an application for insurance from that purchaser or borrower for only the following:

(d) life insurance on the life of the purchaser or borrower in an amount not exceeding the total amount owing under the time sale agreement, continuous deferred payment plan or loan agreement;

(e) disability insurance in respect of the purchaser or borrower that will specifically provide for the retiring of the amount owing under the time sale agreement, continuous deferred payment plan or loan agreement.

(2) When

(a) a purchaser in connection with a time sale agreement or a continuous deferred payment plan or a borrower in connection with a loan agreement applies for insurance under subsection (1), and

(b) the insurance premium is charged to the purchaser or borrower,

the credit grantor shall promptly forward the application for insurance to the insurer and shall furnish proof of the insurance to the purchaser or borrower as soon as the insurance is effected.

(3) A purchaser or borrower is liable to pay to a credit grantor only the insurance premium payable with respect to the period commencing at the time the insurance becomes effective and concluding on

(a) the date of expiry of the policy or any extension of that date as requested by the policy holder, or

(b) the date on which the policy is cancelled,

whichever first occurs.

(4) If a purchaser or borrower has

(a) obtained a certificate or policy of insurance in respect of a time sale agreement, continuous deferred payment plan or a loan agreement, and

(b) been charged an insurance premium or other charge in connection with the insurance,

then, if the purchaser or borrower prepays or refinances the debt under the agreement or plan, the credit grantor shall notify him at the time of prepayment or refinancing that he has a right to cancel the insurance.

(5) When

(a) insurance is sold or made available in connection with a time sales agreement, continuous deferred payment plan or loan agreement,

(b) the purchaser or borrower has been charged an insurance premium or other charge in respect of the insurance, and

(c) the insurance is cancelled for any reason before the expiry date of the insurance,

the credit grantor shall either

(d) cause a refund to be made to the purchaser or borrower of any unearned insurance premium or other charge that has been charged in respect of the insurance, or

(e) apply the unearned insurance premium or other charge that has been charged in respect of the insurance to reduce the debt of the purchaser or borrower.

PART 2

TIME SALE AGREEMENTS, CONTINUOUS DEFERRED PAYMENT PLANS AND LOAN AGREEMENTS

Disclosure re time sale agreement and continuous deferred payment plan

14(1) A time sale agreement shall disclose the following:

(a) the date the agreement is executed;

(b) the number, amount and due dates of the instalments;

(c) the cash price;

(d) the description and value of any trade-in;

(e) the amount of any down payment;

(f) the amount of credit granted by the credit grantor to the purchaser;

(g) any insurance described in section 13(1)(c) and (d) that is requested by the purchaser;

(h) the official fee;

(i) the total principal amount owing under the time sale agreement;

(j) the total amount of all credit charges as an annual percentage rate of the total loan;

(k) any other costs or charges not referred to in this section that are to be paid by the purchaser;

(l) the total amount to be repaid by the purchaser;

(m) a clear description of the goods or services purchased;

(n) the model or serial number, if available, of the goods purchased.

(2) If the transportation or installation costs are charged to the purchaser, those costs shall be separately set out in the time sale agreement.

(3) If any of the matters required to be disclosed under subsections (1) and (2) are varied or revised other than by a new agreement,

(a) the variation or revision, and

(b) any term of the time sale agreement affected by the variation or revision,

shall be disclosed by the credit grantor in a statement prepared by the credit grantor and acknowledged in writing by the purchaser before the variation or revision becomes effective.

(4) The information required to be disclosed under this section shall be set out in the time sale agreement or statement before or above the signature of the purchaser.

(5) If goods are purchased under a continuous deferred payment plan,

(a) the plan and its terms shall be in writing, and

(b) the plan, the periodic statements or the other documents supplied by the credit grantor to the purchaser, shall disclose the following:

(i) when applicable, the particulars required to be disclosed under subsection (1);

(ii) the total balance owing to the credit grantor by the purchaser as of the date of each statement supplied by the credit grantor;

(iii) the amount of the next instalment payable under the plan and the date by which it is required to be paid;

(iv) the credit charge, if any, in accordance with subsection (6).

(6) The credit charges payable under a continuous deferred payment plan shall be shown

(a) in the plan

(i) as a scale of money charges shown in a schedule of amounts of outstanding balances and the applicable charges, and

(ii) as an annual percentage rate or a scale of annual percentage rates,

and

(b) in the periodic statements

(i) as the actual amount of money charged with a clear indication of the balance on which the charge is calculated, and

(ii) as an annual percentage rate or a scale of annual percentage rates.

Purchaser's copy

15 A credit grantor shall give a duplicate copy of the continuous deferred payment plan or time sale agreement entered into by a purchaser and any statement made under section 13(3) acknowledged by a purchaser,

(a) to the purchaser, and

(b) to any other person who may become obligated to repay the amount owing under the plan or agreement,

before the goods are delivered or the services rendered.

Disclosure re loan

16(1) Subject to subsection (2), when a credit grantor makes a loan under a loan agreement to a person, the cost of borrowing in respect of that loan shall be

(a) expressed as an annual percentage rate, and

(b) disclosed to that person in a manner prescribed by regulation.

(2) When a credit grantor makes a loan to a person that is secured by a mortgage on real property, the cost of borrowing in respect of that loan shall be

(a) expressed as an annual percentage rate, and

(b) disclosed to that person in a manner prescribed by the regulations before that person executes the mortgage.

(3) If a loan referred to in subsection (1) or (2) is subject to variations in the annual percentage rate, the credit grantor shall notify the borrower in writing within a reasonable time of any change in the rate that affects

(a) the amount of the payments payable by that borrower, or

(b) the term of the loan.

Disclosure under a loan agreement that extends credit

17(1) Notwithstanding section 16, when a credit grantor grants credit under a loan agreement to a borrower and the loan made or to be made pursuant to the credit and the cost of borrowing in respect of that loan are repayable on demand, in amounts that are not fixed or on dates that are not fixed, the credit grantor shall disclose in writing to the borrower the following:

(a) the cost of borrowing, expressed

(i) as an annual percentage rate, or

(ii) in a manner allowing the annual percentage rate to be determined,

(b) the maximum aggregate amount of loans available pursuant to the credit;

(c) the manner of calculating the cost of borrowing.

(2) A written disclosure under subsection (1) shall take place

(a) in the agreement entered or to be entered into between the credit grantor and the borrower,

(b) in a separate statement given to the borrower,

(c) in a promissory note signed or to be signed by the borrower, or

(d) by a combination of the methods referred to in clauses (a) to (c).

(3) When a loan referred to in subsection (1) is made by way of an overdraft, the credit grantor, shall either make the required disclosure pursuant to subsections (1) and (2), or disclose to the borrower the cost of borrowing, expressed as an annual percentage rate,

(a) in writing within a reasonable time after making the loan, and

(b) by posting a notice in a readily accessible place in the business premises of the credit grantor.

(4) When a change occurs in an item to be disclosed pursuant to subsection (1) or (2), the credit grantor shall notify the borrower of the change

(a) in writing within a reasonable time after making the change, and

(b) by posting a notice in a readily accessible place in the business premises of the credit grantor.

Borrower's copy

18 A credit grantor shall give a duplicate copy of the loan agreement entered into by a borrower

(a) to the borrower, and

(b) to any other person who may become obligated to repay the loan,

before the money is advanced to the borrower or otherwise disbursed at his direction.

Prepayment

19 A credit grantor shall furnish to

(a) a purchaser, in the case of a time sale agreement or a continuous deferred payment plan, and

(b) a borrower, in the case of a loan agreement,

on the request of the purchaser or borrower, as the case may be, a statement showing

(c) the net amount, and

(d) the calculation of the net amount,

required to effect the prepayment in full of the amount owing under the agreement or plan, other than a loan secured by a mortgage of real property.

PART 3

CREDIT CARDS

Definition

20 In this Part,

(a) "credit card customer" means the person to whom a credit card is issued;

(b) "unsolicited credit card" means a credit card that has not been requested in writing by the person to whom a credit card is issued but does not include a credit card issued to a person when the credit card being issued replaces or renews a credit card previously used by that person;

(c) "unauthorized use" means the use of a credit card where that use of the credit card is

(i) not by the credit card customer, or

(ii) authorized by the credit card customer.

Prohibition against unsolicited credit cards

21(1) No person shall issue an unsolicited credit card to another person.

(2) No action lies against a person to whom an unsolicited credit card is issued, sent or otherwise delivered in respect of any use made of that credit card.

Limitation of liability on loss of credit card

22(1) Notwithstanding anything contained in an agreement or contract entered into before or after the commencement of this section, if a credit card is lost or stolen, the credit card customer has no legal obligation for a debt incurred by the unauthorized use of the card on and after the date on which the issuer of the card received actual notice of the loss or theft of the card from that credit card customer or from a person on his behalf.

(2) A notice under subsection (1) may be oral or in writing.

(3) If a credit card is lost or stolen and one or more debts are incurred by the unauthorized use of the card prior to the receipt by the issuer of a notice under subsection (1), the liability of the credit card customer shall not exceed

(a) the lesser of

(i) $50, and

(ii) the amount fixed or agreed to by the issuer as the maximum amount for which that credit card customer is liable in the event of the unauthorized use of the card after its loss or theft,

if the notice was given within a reasonable time after the credit card customer first became aware of the loss or theft of the card, or

(b) the amount fixed or agreed to by the issuer as the maximum amount for which that credit card customer is liable in the event of the unauthorized use of the card after its loss or theft, if the notice was not given within a reasonable time after the credit card customer first became aware of the loss or theft of the card.

Disclosure

23(1) The issuer of a credit card shall disclose to the credit card customer the following:

(a) the maximum aggregate amount of credit available through the use of the card that may be outstanding at any time;

(b) the term of each period for which a statement of account is furnished;

(c) the service, transaction or activity charge, if any, in dollars and cents and the manner in which it is calculated;

(d) the manner, if any, in which the person may discharge his obligation without incurring any cost of borrowing;

(e) the cost of borrowing, if any, expressed as an annual percentage rate;

(f) the minimum repayment by the individual required for each period;

(g) the maximum liability, if any, of the person for unauthorized use of the card in the event that the card is lost or stolen;

(h) the manner in which the cost of borrowing is calculated.

(2) When anything required to be disclosed under subsection (1), other than the information described in subsection (1)(a), is varied, the issuer of the credit card shall give written notice to the credit card customer of the variation, not less than 30 days, or such greater period of time as may be prescribed by regulation, before the variation becomes effective.

(3) A written disclosure under subsection (1) or (2) shall be made

(a) as part of the agreement or proposed agreement between the issuer of the credit card and the credit card customer or proposed credit card customer,

(b) in a separate statement given to the credit card customer,

(c) in a statement of account issued to the credit card customer, or

(d) by any combination of the methods referred to in clauses (a) to (c).

PART 4

LEASE OF PERSONAL PROPERTY

Disclosure

24 A lease shall disclose the following:

(a) a clear description and the model or serial number, if available, of the personal property being leased;

(b) the initial or down payment;

(c) all costs or charges to be paid by the lessee;

(d) the liability of the lessee when the lease terminates or is terminated;

(e) all warranties or guarantees with respect to the personal property;

(f) any insurance carried by the lessor with respect to the personal property;

(g) any additional security or deposit required by the lessor;

(h) the number, amount and due dates of all payments;

(i) the total of the payments to be made by the lessee;

(j) the fair market value of the personal property at the time the lessee signs the lease, if the lessee is liable for any decrease in that value at the termination of the lease;

(k) the conditions under which the lessor or lessee may terminate the lease;

(l) if the lease provides that the title to the property leased may, at the lessee's option, be transferred to the lessee,

(i) the method of exercising the option, and

(ii) all information necessary to calculate the amount required to be paid to exercise the option.

Lessee's copy

25 A lessor shall give a duplicate copy of the lease entered into by a lessee

(a) to the lessee, and

(b) to any other person who may become obligated to carry out the lessee's obligations under the lease,

before the property being leased are delivered to the lessee.

PART 5

DISCOUNTING INCOME TAX REFUNDS

Prohibition

26 No person may, in the course of his business, acquire from a taxpayer the taxpayer's right to any income tax refund that is due or will become due to the taxpayer unless that person holds a subsisting certificate of registration under this Part.

Certificate of registration

27(1) On receipt of an application in the prescribed form from a person who meets the requirements of the regulations with respect to the issuance

of a certificate of registration, the Director may issue a certificate of registration to that person.

(2) The Director may issue a certificate of registration subject to any terms and conditions that he may impose in accordance with the regulations.

(3) The certificate of registration issued to a discounter or a copy of the certificate shall be posted at all the locations at which the discounter carries on business.

(4) The certificate of registration issued to a discounter remains in effect until it is

(a) cancelled at the request of the holder, or

(b) cancelled or suspended under this Part.

(5) The Director shall not refuse to issue a certificate of registration to a person making an application for a certificate of registration unless the Director has

(a) notified the person of his reason for the refusal, and

(b) given the person an opportunity to make representations to the Director in respect of the matter.

Address for service

28(1) An applicant for a certificate of registration shall state in the application an address for service in Alberta.

(2) At all times following the issue of the certificate of registration to a discounter the discounter shall maintain an address for service in Alberta.

(3) A discounter shall notify the Director in writing of any change in his address for service within 15 days of the change.

(4) All notices under this Act or the regulations required or permitted to be given or served on a discounter are sufficiently given or served for all purposes if

(a) sent by registered mail to the latest address for service shown in the records of the Director, or

(b) personally served on the discounter.

Change in partnership

29 If the discounter is a partnership, the discounter shall notify the Director in writing of any change in the make up of the partnership within 15 days of the change.

Suspension and cancellation

30(1) The Director

(a) may suspend the certificate of registration issued to a discounter if he has reason to believe, and

(b) may cancel the certificate of registration issued to a discounter if he determines,

that the discounter has not complied with any provision of this Act, the regulations under this Act or the *Tax Rebate Discounting Act* (Canada) or the regulations under that Act.

(2) When the Director suspends or cancels a certificate of registration he shall serve a notice of the suspension or cancellation on the discounter to whom the certificate was issued.

(3) A suspension or cancellation is effective on a date specified in the notice served under subsection (2).

(4) Notwithstanding subsection (3), if the notice of suspension or cancellation is served by registered mail, the suspension or cancellation can be effective not earlier than 5 days from the date that the notice is mailed.

Appeal

31(1) If

(a) an applicant has been refused a certificate of registration, or

(b) the certificate of registration of a discounter has been suspended or cancelled,

the applicant or discounter, as the case may be, may appeal the decision of the Director by serving a notice of appeal on the Minister not more than 30 days from the date that the applicant or discounter was notified of the refusal or served with a notice of the suspension or cancellation.

(2) Not more than 30 days after being served with the notice of appeal, the Minister

(a) shall appoint an appeal board to hear the appeal, and

(b) may fix the time or extend the time within which the appeal board shall hear the appeal and render a decision.

(3) Where the decision of the Director is appealled, that decision remains in effect pending the determination of the appeal.

(4) The decision of an appeal board is final.

Information to taxpayer

32 Before a discounter may acquire from a taxpayer the right to receive an income tax refund that is due or will become due to the taxpayer, the discounter shall specify in writing to the taxpayer the terms of the acquisition including the following:

(a) the amount of the income tax refund that is due or will become due to the taxpayer;

(b) the amount to be paid by the discounter for the income tax refund that is due or will become due less any amount charged for any service related to the acquisition of the income tax refund or the right to the refund;

(c) the difference between the amounts referred to in clauses (a) and (b) or the amount of the income tax refund that the taxpayer will forego as a result of the discounting agreement;

(d) the amount of the discount expressed in the manner prescribed by the regulations.

PART 6

ADMINISTRATION

Appointment of staff

33 In accordance with the *Public Service Act*, there may be appointed a Director of Consumer Credit and any other employees required to assist the Director in the performance of his duties.

Duties of Director

34 The Director may

(a) conduct studies, surveys and inquiries to determine

(i) the identity of all credit grantors in Alberta, and

(ii) the business practices of those credit grantors,

(b) continually inform himself of changes and developments in the business and business practices of credit granting and discounting,

(c) recommend changes in business practices or forms to a credit grantor or discounter when the Director considers that the changes are necessary to comply with this Act,

(d) consult and co-operate with credit grantors, discounters and other interested parties in order to facilitate the attainment of the objects of this Act, and

(e) perform any other duties prescribed by the Lieutenant Governor in Council.

Records

35(1) A credit grantor shall keep and maintain a complete record, including the original documents or a copy of them executed by the borrower, purchaser, person obtaining credit or lessee, as the case may be,

in respect of each time sale agreement, continuous deferred payment plan, loan agreement, agreement under which a credit card is issued or lease agreement of which the credit grantor is a party to or that has been assigned to him, for a period of 3 years after the final payment is received under the agreement or plan.

(2) A discounter shall keep and maintain a complete record of each acquisition from a taxpayer of the taxpayer's right to receive an income tax refund for a period of 3 years from the date of the acquisition.

Return of information

36(1) The Director may, by notice in writing, require any credit grantor or discounter to submit to him, within the time required in the notice, 1 or both of the following:

(a) a written return showing in detail any information required by the notice, if the information relates to or is incidental to any transaction to which this Act applies;

(b) a return containing or pertaining to any records that relate to or are incidental to any transaction to which this Act applies.

(2) The Director may waive compliance with a notice given under subsection (1) to the extent that the notice relates to records that are no longer required to be kept under this Part and have been destroyed.

(3) The person to whom notice is given under subsection (1) may comply with a request for a return under subsection (1)(b) by permitting a person designated by the Director to examine the records to which the notice relates and, on the request of the person examining the records, to take them away for further examination or copying.

Inquiry

37(1) In order to determine whether the Act and the regulations are being complied with, the Director may, subject to subsection (3), inquire into and examine the affairs of any person that he has reason to believe is engaged in the business of a credit grantor or a discounter.

(2) When the Director

(a) receives a complaint in respect of any matter to which this Act applies, or

(b) has reason to believe that a contravention of this Act or the regulations has taken place,

he may inquire into the complaint or alleged contravention and receive in writing from any person any information that he considers to be relevant to the inquiry.

(3) For the purpose of carrying out an inquiry under this section, the Director may make an application to the Court of Queen's Bench for an order

(a) authorizing the Director or a person designated by him or named in the order

(i) to enter any premises where a person

(A) is engaged in the business of a credit grantor or discounter, or

(B) keeps records that relate to a transaction to which this Act applies;

(ii) to examine records that relate to a transaction to which this Act applies;

(iii) to seize and remove records that relate to a transaction to which this Act applies for the purpose of further examining and making copies of the records;

(b) requiring a person engaged in the business of a credit grantor or discounter or a person employed by him or otherwise performing services for him in respect of that business

(i) to provide information to the Director or a person designated by him or named in the order in respect of a transaction to which the Act applies;

(ii) to give all reasonable assistance to the Director or a person designated by him or named in the order in carrying out his inquiry.

(4) An application under subsection (3)

(a) shall be by way of an originating notice, and

(b) may be made ex parte if the Court considers it appropriate to do so in the circumstances.

(5) On hearing an application under subsection (3) the Court may

(a) make an order that it considers appropriate in the cirucmstances, and

(b) award costs in respect of the matter.

Evidence

38(1) The Director shall

(a) give to the person from whom anything is taken under section 36(3) or 37(2) a receipt for the things taken, and

(b) forthwith

(i) make copies of, take photographs of or otherwise record the things removed, and

(ii) return the things to the person to whom the receipt was given under clause (a).

(2) A copy of a record obtained under section 36 or 37 and certified to be a true copy by the Director shall be admitted in evidence in any action, proceeding or prosecution under this Act as prima facie proof of the original record without proof of the signature or appointment of the Director.

Accountants, etc.

39 With the approval of the Minister, the Director may for any purpose in connection with the administration of this Act obtain the services of

accountants, actuaries or other persons having special technical or other knowledge in respect of matters pertaining to this Act.

Advisory councils

40 The Minister may appoint persons to an advisory council who shall consult with and advise the Director in the performance of his duties.

Offences

41(1) A person who fails to comply with this Act or the regulations is guilty of an offence and liable

(a) in the case of a corporation, to a fine of not more than $10 000, and

(b) in the case of an individual, to a fine of not more than $5000 or to imprisonment for a term not exceeding 6 months or to both a fine and imprisonment.

(2) If a corporation has failed to comply with this Act or the regulations, any officer, director or agent of the corporation who directed, authorized, assented to, acquiesed in or participated in that failure to comply with this Act or the regulations is guilty of an offence and is liable to a fine of not more than $5000 or to imprisonment for a term not exceeding 6 months or to both a fine and imprisonment, whether or not the corporation has been prosecuted or convicted for the failure to comply with this Act or the regulations.

(3) A prosecution under subsection (1) or (2) may be commenced not more than 3 years after the commission of the offence.

Application to court

42(1) Notwithstanding section 41, if the Director is of the opinion that a person is not complying with this Act or the regulations, the Director may apply to the Court of Queen's Bench for an order directing that person to comply with this Act or the regulations.

(2) An application under this section shall be by way of an originating notice.

(3) On an originating notice being filed with the clerk of the Court, the Court may, if it considers it necessary in the circumstances, make an interim order granting such relief as the Court considers appropriate pending the determination of the application.

(4) An interim order under subsection (3) may be made ex parte if the Court considers it appropriate to do so in the circumstances.

(5) On hearing an application the Court may do 1 or more of the following:

(a) direct the person to comply with this Act, the regulations or the request of the Director;

(b) direct the person to cease carrying out any action that in the opinion of the Court does not comply with this Act, the regulations or the request of the Director;

(c) give those directions that it considers necessary in order to ensure that this Act, the regulations or the request of the Director will be complied with;

(d) make its order subject to any terms or conditions that the Court considers appropriate in the circumstances;

(e) award costs in respect of the matter.

Regulations

43 The Lieutenant Governor in Council may make regulations

(a) governing the manner in which annual percentage rates shall be expressed, calculated and applied;

(b) governing forms to be used under this Act;

(c) governing the particulars required to be given in a notice under this Act;

(d) governing the particulars required to be given in any agreement to which this Act applies;

(e) exempting a person, class of persons, transaction or class of transactions from the application of all or part of this Act;

(f) prescribing the requirements to be complied with by an applicant for a certificate of registration as a discounter;

(g) governing the imposition of any terms or conditions in respect of a certificate of registration issued to a discounter;

(h) respecting disclosures made under section 16;

(i) prescribing time periods for the purposes of section 23(2);

(j) defining, for the purposes of this Act or the regulations, any term not defined in this Act.

Amends RSA 1980 cM-19

44 *The Mortgage Brokers Regulation Act is amended by repealing section 8(2) and (3).*

Amends RSA 1980 cT-9

45 *The Trust Companies Act is amended by repealing section 144.*

Repeal

46 *The Credit and Loan Agreements Act is repealed.*